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8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA

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11 JOHN STEVEN SPISAK,

Case No. 3:12-cv-00588-MMD-VPC

12 Petitioner,

ORDER

13 v.

14 STATE OF NEVADA, et al.,

15 Respondents.
16

17 The Court directed petitioner to show cause why this action should not be
18 dismissed for petitioner's failure to exhaust his available state-court remedies. The
19 Court also directed petitioner to file an amended petition. Order (dkt. no. 4). Petitioner
20 then filed a writ of errata (dkt. no. 8) to the objection. Petitioner has filed a reply and
21 objection (dkt. no. 10) and a writ of errata to the reply and objection (dkt. no. 9).¹

22 These documents do not comply with the Court's order. First, petitioner does not
23 address the Court's determination that the petition appears to be completely
24 unexhausted. Petitioner's argument is rambling, but he appears to claim that his petition
25 should be granted because the respondents have not filed a response within the time
26 required by 28 U.S.C. § 2243. The Court has not ordered the respondents to respond.

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28 ¹Petitioner also has filed a 214 page objection (dkt. no. 7) and errata (dkt. no. 8)
to the minute order reassigning this action to the undersigned.

1 The Court reviewed the petition pursuant to Rule 4 of the Rules Governing Section 2254
2 Cases in the United States District Courts.² The Court noticed a potential failure to
3 exhaust, which the Court may address on its own motion, and gave petitioner the
4 opportunity to address the defect. Petitioner has not taken the opportunity. Second,
5 petitioner has not submitted to the Court an amended petition to correct two other
6 defects. Even if the Court was incorrect about the apparent failure to exhaust, petitioner
7 still has not presented any claims that are addressable in federal habeas corpus.

8 Reasonable jurists would not find the Court's conclusions, either on the failure to
9 exhaust or the failure to present valid constitutional claims, to be debatable or wrong.
10 The Court will not issue a certificate of appealability.

11 IT IS THEREFORE ORDERED that this action is DISMISSED without prejudice
12 for petitioner's failure to exhaust his available state-court remedies. The Clerk of the
13 Court shall enter judgment accordingly.

14 IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

15 DATED THIS 9th day of July 2013.
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18 _____
19 MIRANDA M. DU
20 UNITED STATES DISTRICT JUDGE
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27 ²To the extent that petitioner is arguing that this is not a petition pursuant to 28
28 U.S.C. § 2254, he is incorrect. Petitioner is in custody pursuant to the judgment of a
state court, and he is challenging the validity of that custody. Section 2254 is the
applicable provision.